

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ROBERT DAVID STEELE et al

Plaintiffs,

V.

JASON GOODMAN et al

Defendants.

Case 3:17-cv-601-MHL

PLAINTIFFS' FIRST MOTION TO COMPEL
MANDATORY DISCLOSURES AND DOCUMENTS FROM
DEFENDANT, JASON GOODMAN

Plaintiffs, Robert David Steele and Earth Intelligence Network (“Plaintiffs”), by counsel, pursuant to Rules 37(a)(3) and 37(a)(5) of the Federal Rules of Civil Procedure and Local Civil Rules 7 and 37, respectfully move the Court (a) to compel disclosures required by Rule 26(a)(1)(A)(ii) from defendant Jason Goodman (“Goodman”), (b) to compel production of documents from Goodman, and (c) to award Plaintiffs their reasonable expenses incurred in making the motion, including attorney's fees.

A. Rule 26(a)(1)(A)(ii) Disclosures

1. On June 14, 2019, Goodman submitted his Rule 26(a)(1) disclosures.
[ECF No. 125].
2. In his disclosures, Goodman represents as follows:

The Defendant intends to use the following documents in support of his case

- a. All documents identified and referred to in the parties' pleadings, including documents that are linked via internet URLs
- b. All documents produced in discovery by the parties;
- c. E-mails exchanged between Defendant Goodman and Plaintiff
- d. E-mails exchanged between Defendant Goodman and Co-Defendant Negron.
- e. E-mails exchanged between Defendant Goodman and Co-Defendant Lutzke
- f. E-mails and telephone calls between Defendant Goodman and Counsel for Plaintiff
- g. E-mails and telephone calls between Defendant Goodman and William F. Kernan
- h. All documents produced by third-parties in response to Rule 45 Subpoenas.

3. Despite request, Goodman refuses to produce any of the identified documents that he intends to use to support his case.

B. Rule 34 Documents

4. On May 15, 2019, Plaintiff Steele served Goodman with a request for production of documents pursuant to Rule 34 (the "Discovery Requests").

5. On May 29, 2019, Goodman filed objections to the Discovery Requests. [ECF No. 118].

6. Goodman failed to produce an inventory list (*i.e.*, privilege log) for the documents he withheld from production.

7. Goodman's response to the Discovery Requests was due on June 17, 2019.

8. Goodman failed to produce any documents.

CERTIFICATION

Plaintiffs have in good faith attempted to confer with Goodman in an effort to obtain Goodman's required disclosures and documents without court action.

On June 18, 2019, Plaintiffs, by counsel, contacted Goodman via email; notified Goodman that his Rule 26(a)(1)(A)(ii) disclosures and response to the Discovery Requests were overdue; and requested available dates for a telephone conference to confer about the outstanding discovery.

Goodman ignored Plaintiffs' attempt to confer.

Within eleven (11) days of filing this motion, the parties will file a Joint Statement detailing and itemizing the specific discovery disputes at issue. Plaintiffs will endeavor to obtain Goodman's cooperation in preparing the Joint Statement.

REQUEST FOR RELIEF

For the reasons stated above and in the Joint Statement to be filed, Plaintiffs respectfully request the Court to grant their Motion to Compel and award their attorney's fees incurred in making this motion.

DATED: June 21, 2019

Signature of Counsel on Next Page

ROBERT DAVID STEELE
EARTH INTELLIGENCE NETWORK

By: /s/Steven S. Biss

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Counsel for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2019 a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to counsel for Defendant, Patricia A. Negron, and all interested parties receiving notices via CM/ECF. I also certify that a copy of this pleading was emailed in PDF to Defendants, Goodman and Lutzke.

By: /s/Steven S. Biss

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Counsel for the Plaintiffs